
Agricultural
Worker Protection Standard
40 CFR Parts 156 & 170
Interpretive Policy

Questions
&
Answers

U.S. Environmental Protection Agency
Office of Enforcement and
Compliance Assurance
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14.38 field transplant
operations,
coverage by WPS

Q. Several field agricultural crops are grown using transplants from nursery seedbeds. Most current agricultural practice involves the transplants being set into the ground concurrent with an at-plant pesticide application. Such transplant operations usually are accomplished using the following two methods: (1) manual transplanting with concurrent pesticide application where the employees plant the seedlings in advance of the spray-rig, with the spray-rig following behind applying the pesticide; or (2) mechanical transplant/application process where equipment is a combination planting apparatus and spray-rig on which employee(s) sit and feed seedlings into the planting arm or wheel (depending on the equipment) which mechanically sets plants into ground while at the same time a pesticide is applied. Additionally, there may be an employee following the rig to assure that the planter/spray-rig is operating and setting the plants in properly. **NOTE: There are several variations of these transplant type operations where planting occurs at the same time as pesticide applications (dip solutions, etc.).** How will these transplant operations be treated under the WPS?

A. Under the WPS, agricultural employers may not allow any person (including workers), other than an appropriately trained and equipped handler, to enter or remain in the treated area during an application. Further, employers and pesticide handlers must assure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler.

For field transplant operations such as those described in number one above (1), the employees are considered workers since they are solely performing hand-labor tasks as transplanters and are

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not involved in the pesticide application itself. As such, they may not enter or remain in a treated area during the application of a pesticide. If the workers can keep in front of the treated area (that area to where the pesticide is being directed or has been directed) and the employer and handler assure that the workers do not come into contact with the pesticide or pesticide treated surfaces while transplanting (directly or through drift), then the operation would not constitute a WPS violation. It is the employer's responsibility to notify the workers of the pesticide application and to assure that the workers who are transplanting seedlings constantly remain in front or outside of the treated area.

For field transplant operations that occur concurrently with pesticide application such as those described in number two above (2), and for similar pesticide applications combined with another agricultural operation which may require additional employees to operate the supplemental equipment (at-plant seed treatments, etc.), the Agency views the entire operation to be part of a "pesticide application process." Therefore, the employees will be considered handlers and are not subject to restrictions associated with remaining outside of the treated area. However, all employees taking part in such a transplant operation must be trained and equipped as handlers, including those following the rig as described in the question above. These employees may not perform tasks in the treated area other than those described above or otherwise allowed by the regulation.

NOTE: In addition, it is the employer's responsibility to comply with other applicable rules and provisions, e.g., the notification requirements and entry restrictions associated with nurseries.
